

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Communications Assistance for)	ET Docket No. 04-295
Law Enforcement Act and)	
Broadband Access and Services)	

Comments of VeriSign, Inc.

In response to the Public Notice on CALEA Jurisdictional Separations

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EXECUTIVE SUMMARY

Jurisdictional separation of CALEA-related costs incurred by carriers in the context of anticipated broadband access and managed/mediated VoIP services capability requirements in this proceeding seems highly undesirable if not infeasible. Although these capability requirements satisfy both State and Federal jurisdictions, the complexity and costs associated with attempting to implement any kind of Part 36 jurisdictional separations regime should be rejected. This burden would also be disproportionately heavy for small businesses. Instead, the Joint-Board and the Commission should allow all CALEA-related costs emerging from the instant 04-295 proceeding, including compliance outsourcing to Trusted Third Party service bureaus, to be identified as a single Federal interstate cost and reflected in line-item billing between the provider and its end-user customers.

RESPONSE TO THE PUBLIC NOTICE QUESTIONS

1. For more than a decade, VeriSign has provided an array of large-scale, ultra-high availability, trusted infrastructures that enable signalling, security, identity management, directory, financial transaction, and fraud management capabilities for a broad array of network based business and consumer services – whether it be Internet, Web, Internet access, traditional voice telephony, VoIP, multimedia, next generation, or sales. VeriSign offers Trusted Third Party NetDiscovery™ Service bureau solutions to providers to significantly lower CALEA compliance and lawful assistance costs. VeriSign provides the following responses to the Commission’s questions posed in its Jurisdictional Separations Public Notice.¹

a. What equipment, investments, and other costs (including expenses) can or should be considered to be related to CALEA compliance?

2. All equipment, investments and other costs directly related to CALEA compliance should be considered as related to CALEA compliance, including outsourcing of compliance to Trusted Third Party Service Bureaus.

¹ *Federal-State Join Board on Jurisdictional Separations Seeks Comment on Communications Assistance for Law Enforcement (CALEA) Issues*, in CC Docket No. 80-286, ET Docket No. 04-295, Public Notice DA 05-535, 2 March 2005.

b. Who are the users (anticipated and historical) of CALEA-related services (*i.e.*, federal, state, or local LEAs, or others)? What has been their relative usage, and do you expect that relationship to change in the future? If so, how?

3. The users of CALEA-related services – both anticipated and historical - include all Federal and State law enforcement, judicial, and government investigatory agencies. The recent coming into force of the Convention on Cybercrime, of which the U.S. is signatory, also potentially enlarges the CALEA user population to foreign government agencies who meet the requirements for cooperation pursuant to Chapter III of the Convention. The law enforcement needs addressed in the context of the instant docket 04-295 proceeding dealing with IP-Enabled Services are likely to increasingly arise concurrently across multiple jurisdictions, and lend themselves to any jurisdictional separations methodologies.

c. Should CALEA-related costs incurred be allocated to a single category identified as CALEA-related expenses or should the costs associated with compliance be allocated to the existing separations categories or subcategories within them?

4. CALEA-related costs should be allocated to a single category identified as CALEA-related expenses. Doing otherwise would be a hopelessly complicated if not impossible exercise that serves no useful purpose.

d. If changes to Part 36 are required or appropriate, are any similar or related changes required in Part 32 or in any other Commission rules?

5. It is not apparent that any changes to Parts 36 or 32 are required.

e. Should CALEA-related revenues received from the Attorney General be allocated to ensure that revenues follow their associated costs to a particular jurisdiction?

6. In the unlikely event that the Attorney General should disburse Federal monies for CALEA compliance, this money would be best spent eschewing any judicial separations process and be used to support Trusted Third Party service bureau implementations that significantly benefit multiple affected providers.

f. Should CALEA-related costs for circuit-based capabilities be separated, and if so, how should the associated costs and revenues be allocated for jurisdictional separations purposes?

g. Should CALEA-related costs for packet-mode capabilities be separated, and if so, how should the associated costs and revenues be allocated for jurisdictional separations purposes?

h. Should the interim freeze of the Commission's jurisdictional separations rules affect the treatment of CALEA-related costs? If there are any recommended changes to Part 36 of the Commission's rules, should they wait until the end of the freeze, or should the frozen factors and categories be adjusted during the freeze?

7. CALEA-related costs for either circuit or packet based capabilities should not be separated, and no changes to Part 36 of the Rules are suggested.

i. In addition, we seek comment on three alternative proposals for the appropriate jurisdictional separation of CALEA-related costs and revenues:

- i. Should all CALEA-related costs and revenues be directly assigned to the Federal jurisdiction, based on the fact that CALEA is a Federal mandate?
- ii. Should CALEA-related costs and revenues be allocated between jurisdictions based on relative-use factors derived from the relative electronic surveillance requirements of the LEAs?
- iii. Should CALEA-related costs and revenues be allocated between jurisdictions based on a fixed factor, and if so, what should the fixed factor be based on?

8. CALEA-related costs and revenues should be directly assigned to the Federal jurisdiction, based not only on the fact that CALEA is a Federal mandate, but also for the many reasons articulated in para. 3, above. In addition, considering the Commission's preemption of State VoIP jurisdiction in the *Pulver Decision*² and the principal focus in this proceeding on VoIP, the assignment of CALEA-related costs to the Federal jurisdiction seems appropriate.

² See *Petition for Declaratory Ruling that pulver.com's Free World Dialup Is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, Memorandum Opinion and Order, 19 FCC Rcd 3307, 3320-21, para. 21 (2004) (Pulver Order).